99TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
99-777

PROVIDING OPTIONS FOR LAND EXCHANGES INVOLVING LANDS ON ADMIRALTY ISLAND, AK, AND FOR OTHER PURPOSES

AUGUST 8, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. UDALL, from the Committee on Interior and Insular Affairs, submitted the following

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REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 4883]

[Including the cost estimate of the Congressional Budget Office]

The Committee on Interior and Insular Affairs to whom was referred the bill (H.R. 4883) to provide options for land exchanges involving lands on Admiralty Island, AK, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 3, strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Admiralty Island Land Exchange Act of 1986".

(b) PURPOSE.—The purpose of this Act is to provide an offer for Shee Atika, Incorporated, and Sealaska Incorporated, Alaska Native Corporations, to voluntarily relinquish and convey to the United States certain lands and interests therein on Admiralty Island and receive in lieu thereof lands and other valuable consideration as provided herein, and to provide for acquisition of certain other lands and interests.

SEC. 2. DEFINITIONS AND MAPS.

(a) GENERAL DEFINITIONS.—As used in this Act:

(1) The term "the Act" means the Alaska National Interest Lands Conservation Act (Public Law 96-487 as amended).

(2) The term "Secretary" means the Secretary of Agriculture.

(3) The terms "lands", "Federal lands", and "public lands" have the same meanings as specified in section 102 of the Act.

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(4) The term "Cube Cove lands" means the surface and subsurface lands and interests in lands on Admiralty Island conveyed to Shee Atika Incorporated and Sealaska Incorporated pursuant to section 506(c) of the Act and pursuant to the land exchange agreement dated October 17, 1985 between the Corporations and the United States.

(5) The term "Shee Atika" means Shee Atika, Incorporated, an Alaska Native Urban Corporation (as such term is defined in section 102(9) of the Act) existing under the laws of the State of Alaska.

(6) The term "Sealaska" means Sealaska Corporation, an Alaska Native Regional Corporation (as such term is defined in section 102(7) of the Act) existing under the laws of the State of Alaska.

(7) The term "Corporations" means Sealaska and Shee Atika.

(8) The term "Settlement Act" means the Alaska Native Claims Settlement Act (85 Stat. 688; Public Law 92-203 as amended).

(9) The term "subsurface estate" shall have the same meaning when used in this Act as such term has when used in the Settlement Act.

(b) LAND DEFINITIONS.—As used in this Act:

(1) The term "Baranof Island Lands" means those lands above mean high tide generally depicted on a map entitled "Baranof Island Lands" dated May 1986, and consisting of approximately 11,400 acres.

(2) The term "Bay of Pillars Lands" means those lands above mean high tide generally depicted on a map entitled "Bay of Pillars Lands" dated August 1986 and consisting of approximately 12,100 acres.

(3) The term "Greens Creek Subsurface Lands" means the subsurface estate to those lands generally depicted on a map entitled "Greens Creek Subsurface Lands" dated May 1986, and consisting of approximately 15,000 acres.

(4) The term "Greens Creek Surface Lands" means those lands generally depicted on a map entitled "Greens Creek Surface Lands" dated May 1986 and consisting of approximately 4,000 acres.

(5) The term "Hetta Inlet Subsurface Lands" means the subsurface estate to those lands generally depicted on a map entitled "Hetta Inlet Subsurface Lands" dated May 1986 and consisting of approximately 4,709 acres.

(c) MAPS.—All maps referred to in this Act shall be on file with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and also on file and available for public inspection in the office of the Chief, Forest Service, Washington, D.C. The acreages cited in this Act are approximate, and in the event of discrepancies between cited acreages and the lands depicted on referenced maps, the maps shall control, but such maps shall not be construed as attempts by the United States to convey State or private lands.

SEC. 3. OFFER TO SHEE ATIKA.

For and in consideration of the relinquishment and conveyance to the United States of all Shee Atika's rights, title, and interest in Cube Cove lands, the lands, interests in lands, and other valuable consideration listed in paragraphs (1) through (6) of this section are offered to Shee Atika for its voluntary acceptance as provided in section 5, subject to valid existing rights and rights reserved to the United States:

(1) The surface and subsurface estate of Baranof Island Lands.

(2) The surface estate of the Bay of Pillars Lands.

(3) An opportunity to have two-fifths (40 percent) equity ownership of any corporation or partnership formed to receive the subsurface estate to the Greens Creek Subsurface Lands, or the entire equity ownership of such a corporation or partnership as provided in section 6.

(4) Acceptance by Shee Atika as provided in section 5, and conveyance of the Cube Cove lands to the United States, shall be deemed to constitute satisfaction of all principal and interest (including penalties) due on any outstanding loans (including loan guarantees on which default has occurred) to Shee Atika and its subsidiaries by the Bureau of Indian Affairs.

(5) The Secretary's contractual agreement to construct a road of approximately 20 miles in length (proposed Forest Road No. 7579) as provided in section 11 and generally located on the map entitled "Baranof Island Lands".

(6) A payment by the United States to Shee Atika in the sum of $25,000,000 in 2 installments. The first installment of $15,000,000 shall be paid in accordance with section 15 and no later than 180 days after the date of Shee Atika's acceptance pursuant to section 5. The second installment of $10,000,000 shall be paid in the next fiscal year following payment of the first installment but no later than 12 months after payment of the first installment.

SEC. 4. OFFER TO SEALASKA.

For and in consideration of the relinquishment and conveyance to the United States of all Sealaska's subsurface estate and other right, title, and interest in Cube Cove lands, the interests in lands referred to in paragraphs (1), (2), and (3) are offered to Sealaska for its voluntary acceptance as provided in section 5, subject to valid existing rights and rights reserved to the United States and the provisions of section 6(b):

(1) An opportunity to have three-fifths (60 percent) equity ownership in any corporation or partnership formed pursuant to section 6 to receive the Greens Creek Subsurface Lands, and a leasehold interest in the Greens Creek Surface Lands as provided in section 9.

(2) The Hetta Inlet Subsurface Lands.

(3) Any federally owned subsurface estate underlying lands conveyed to Goldbelt, Incorporated, at Hobart Bay pursuant to the exchange agreement dated April 11, 1979, ratified by section 506(b) of the Act.

SEC. 5. ACCEPTANCE.

(a) PROCEDURE.—Within the periods after the enactment of this Act specified in subsection (b) of this section, Shee Atika or both the corporations may accept the offers provided in sections 3 and 4, respectively, by delivering to the Secretary properly executed and certified corporate resolutions binding upon the corporation or corporations with respect to the offers, and an opinion of the appropriate counsel of the respective corporations stating that the corporation is empowered to take such action and that the action comports with all requirements of Federal and State law and the rules and bylaws of the corporation. If the Secretary deems the resolutions and counsel's opinions delivered by Shee Atika or by both corporations to be legally sufficient and all requirements of this Act fulfilled, the Secretary shall so notify the President of each accepting and the Secretary shall forthwith proceed to implement exchanges authorized by this Act with each such corporation.

(b) DEADLINES.—

(1) SHEE ATIKA.—No acceptance by Shee Atika pursuant to subsection (a) of this section shall be effective unless the documents described in such subsection are delivered on or before the one-hundred-twentieth day after the date of enactment of this Act, except to the extent a later date may be allowed by the Secretary pursuant to subsection (c) of this section.

(2) SEALASKA.—No acceptance by Sealaska pursuant to subsection (a) of this section shall be effective unless the documents described in such subsection are delivered on or before the ninetieth day after the date of enactment of this Act, except to the extent a later date may be allowed by the Secretary pursuant to subsection (c) of this section.

(c) ADDITIONAL TIME.—If the Secretary finds that a resolution or opinion of counsel delivered pursuant to subsection (a) of this section is inadequate, the Secretary shall apprise the relevant corporation and give such corporation an opportunity to remedy the inadequacy. In no event shall the Secretary permit the time to remedy to exceed 30 calendar days beyond the relevant deadline specified in subsection (b) of this section.

SEC. 6. ACCEPTANCE CONTINGENCIES.

(a) ACCEPTANCE BY SHEE ATIKA ONLY.—If, pursuant to section 5, Shee Atika accepts the offer of section 3, but Sealaska fails to accept the offer of section 4, then there shall be conveyed to any corporation which is formed to receive such estate and which is wholly owned by Shee Atika the entire undivided subsurface estate to the Greens Creek Subsurface Lands, and the Secretary shall reduce the Bay of Pillars Lands offered by section 3(2) to a total offer of 4,800 acres, and no surface leases shall be issued by the Secretary.

(b) REJECTION BY SHEE ATIKA.—If Shee Atika fails to accept the offer of section 3, the provisions of sections 3 and 4 shall not be effective, the Secretary shall not accept any conveyances tendered in accordance with section 5, no conveyances shall be made pursuant to section 7, no leases shall be issued pursuant to section 9, and no other provisions of this Act relating to Shee Atika or Sealaska shall have any force or effect.

(c) CORPORATION OPTION.—If both the Corporations accept the offers of sections 3 and 4, and if no later than 60 days after the latter of such corporations to accept has informed the Secretary of such acceptance both corporations further inform the Secretary that they have taken appropriate steps to form a new corporation or partnership to receive conveyance of the interests described in sections 3(3) and 4(1), the Secretary is authorized and directed to convey such interests to such new corporation or partnership. Any such corporation or partnership shall be formed on the

basis of 60 percent equity ownership by Sealaska and 40 percent equity ownership by Shee Atika, unless Sealaska fails to accept the offer of section 4, in which case such corporation or partnership shall be wholly owned by Shee Atika. Any such corporation or partnership shall be formed and governed pursuant to applicable law of the State of Alaska.

(d) PERMIT.—If Shee Atika accepts the offer of section 3, upon conveyance of the Cube Cove lands to the United States the Corps of Engineers' permit numbered 071-OYD-2-810133, Chatham Strait 92, shall be assigned to the Secretary in connection with the exchanges authorized by this Act.

SEC. 7. CONVEYANCES.

(a) INTERIM CONVEYANCE.—Upon acceptance by Shee Atika, or both Shee Atika and Sealaska, and the conveyance to the United States by the accepting corporation or corporations of the interests of such corporation or corporations in the Cube Cove lands, the Secretary shall notify the Secretary of the Interior, and no later than 180 days after such notification the Secretary of the Interior shall issue interim conveyances to the appropriate lands and interests in lands, except that leasehold interests provided in section 9 shall be issued only by the Secretary. All nonleasehold lands conveyed to either Shee Atika or Sealaska shall be considered as lands conveyed pursuant to the Settlement Act. Lands or interests therein conveyed to Shee Atika pursuant to this Act shall be deemed to have been conveyed as of December 9, 1981, but this effective date shall not be construed in any way so as to obligate any payments by the United States, or to require the escrow of any funds which may have been generated on such lands prior to the effective date of this Act.

(b) RELEASES.—Upon notification from the Secretary pursuant to subsection (a) that Shee Atika has conveyed to the United States its interests in the Cube Cove lands, the Bureau of Indian Affairs shall promptly execute and deliver to Shee Atika appropriate releases or other documents evidencing the satisfaction of loans as provided in section 3(4).

(c) SURVEYS.—No later than two years after the issuance of an interim conveyance to Shee Atika or Sealaska pursuant to subsection (a), the Secretary of the Interior shall make a boundary survey of the lands which are the subject of such interim conveyance.

SEC. 8. CUBE COVE LANDS.

(a) EFFECT OF ACCEPTANCE.—Upon an acceptance by Shee Atika pursuant to section 5—

(1) All timber harvest and related activities on the Cube Cove lands (except as occurring under a contract in existence on May 21, 1986) shall cease. At the end of any such timber harvest and related activities pursuant to such contract, the Secretary, notwithstanding any other provision of law, on the harvested portion of the Cube Cove lands shall carry out the removal of culverts, bridges, timber harvest equipment, and other personal property, and the closing and seeding of road surfaces in accordance with management practices applicable to Tongass National Forest commercial forest lands. In carrying out such steps, the Secretary shall to the maximum extent practicable employ local residents, in accordance with the provisions of section 1308 of the Act. All such steps shall be completed as soon as possible, but no later than three years after an acceptance by Shee Atika pursuant to this Act.

(2) Corps of Engineers permit Number 071-OYD-2-810133, Chatham Strait 92, shall be assigned to the Secretary for use in connection with the steps required by paragraph (1).

(b) STATUS AFTER ACCEPTANCE.—(1) Upon their conveyance to the United States pursuant to this Act, the Cube Cove lands shall be incorporated into the Admiralty Island National Monument and Admiralty Island Wilderness and shall be managed accordingly.

(c) REPORTS.—The Secretary shall incorporate into each report submitted to the Congress pursuant to section 706(b) of the Act after the date of enactment of this Act information regarding each of the following:

(A) State selections of land in the Tongass National Forest, and the effects of such selections on management of the Tongass National Forest.

(B) An account of the status of the adjustment of 15,000,000 board feet annually which the Secretary in the first such report identified as having been applied to the original yield calculation in the forest plan in anticipation that Native corporations with selection rights on Admiralty Island would exchange those rights or lands received in fulfillment thereof for lands elsewhere in the Tongass National Forest.

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SEC. 9. MINING ACTIVITIES AT GREENS CREEK.

(a) SURFACE LEASE.—Upon an acceptance by both Sealaska and Shee Atika, in accordance with the provisions of sections 5 and 6, the Secretary shall issue to Sealaska a use and occupancy lease to the Greens Creek Surface lands on the following terms and conditions:

(1) The lease shall permit the use and occupancy of the area solely for purposes related to mining or milling.

(2) An operating plan or plans approved by the Secretary shall be required for mining and related operations utilizing all or any portion of the Greens Creek Subsurface Lands, the Greens Creek Surface Lands, or both such lands. Operations pursuant to such plan or plans shall be subject to standards and procedures for control and mitigation of surface disturbances and environmental impacts required by the Act and other applicable law, except that the provisions of section 503(f)(2)(A) of the Act shall not apply to the Greens Creek Surface Lands while a lease issued pursuant to this section is in effect.

(3) Within the leasehold area, the lessee shall be allowed to harvest and sell any timber required to be removed for mining and access related activities, subject to reasonable conditions established by the Secretary in order to protect values of the Admiralty Island National Monument. No other commercial use of timber or other surface resources on the leasehold area shall be permitted.

(4) Public occupancy and use of the Greens Creek Surface Lands during the term of the lease shall be governed by the provisions of the Greens Creek Final Environmental Impact Statement. The lease holder shall continue to permit the use of any roads, docks, and related access facilities in accordance with the requirements of permits issued pursuant to applicable law.

(5) The Secretary shall require reclamation of the surface to standards as established by the provisions of the Greens Creek Final Environmental Impact statement upon relinquishment or termination of the leasehold. The Secretary shall continue to require the posting of an adequate reclamation bond pending completion of such reclamation activities.

(6) The lease shall terminate 25 years from the date of issuance, and shall then be renewed for an additional 25 years, without charge but subject to the terms specified in this section and such other reasonable terms consistent with this Act as the Secretary shall prescribe, unless the lessee voluntarily elects to relinquish the lease at the end of the first 25 year period. If mining activities are ongoing at the end of the period ending 50 years after the date of initial issuance of the lease, or at the time of an earlier relinquishment of the lease, the Secretary, in his discretion and subject to valid existing rights, including rights of access, may permit continued surface occupancy and use.

(7) A lease issued pursuant to this subsection may be assigned or transferred by its holder, who shall provide appropriate notice to the Secretary concerning such assignment or transfer. An assigned or transferred lease shall remain subject to the terms and conditions imposed pursuant to this section. A lease issued pursuant to this subsection may be relinquished by the holder thereof at any time.

(8) Leases issued pursuant to this section shall be subject to valid existing rights, including the rights of holders of valid mining claims for access to such claims and for utilization of so much of the surface of such claims as necessary for maintenance and development of such claims.

(b) SAVINGS CLAUSE.—Except as specifically provided in this section, nothing in this Act shall be construed as modifying the applicability to mining or related activities in the Greens Creek area or any other portion of the Tongass National Forest of any laws, regulations, standards, or rules applicable to such activities on the day before the date of enactment of this Act. Nothing in this Act shall be construed as limiting the ability of any party otherwise entitled to bring such an action to bring an action based on a claim that any such activities are inconsistent with any such law, regulation, standard, or rule.

SEC. 10. RESERVATIONS.

(a) VALID EXISTING RIGHTS AND PERPETUAL EASEMENTS.—Any and all conveyances of land by the United States pursuant to this Act shall be subject to valid existing rights and to the perpetual easements delineated on the maps referenced in this Act, which easements are hereby reserved in the United States for such purposes as the Secretary deems necessary for National Forest and other public purposes, and such conveyances shall also be subject to any Federal administrative sites and installations which the Secretary prior to patent of such lands determines were existing as of the date of enactment of this Act.

(b) TERMS OF RESERVATIONS.—The following terms shall apply to reservations in the United States made by subsection (a):

(1) Public easements shall be identified by the Secretary for actual or potential uses as reasonably necessary to guarantee a full right of public use of and access to adjacent Federal lands for public recreation, hunting, transportation, docks, and other public uses.

(2) Site easements may be utilized for any National Forest and other public purpose and shall be reasonably compact areas delineated by the Secretary.

(3) All easements reserved by this section shall include the right of the Secretary to utilize without charge any timber, rock and common varieties of mineral materials located within the easement area for uses allowed within such area. The owner of the adjacent lands may use any easement in accordance with applicable regulations of the Secretary.

(4) All easements reserved by this Act shall be located as generally depicted on the maps referenced in this Act. The actual surveyed location of the easements may be modified on-the-ground by the Secretary due to the feasibility of construction, maintenance, use and the avoidance of unnecessary costs or time delays due to acts of God, unfavorable engineering requirements, unsuitable terrain such as excess slope, erosive surface, muskeg, wetlands and/or hazards, or potentially adverse impacts on or disruption to fish, wildlife, botanical, or other resources.

(5) Any valid existing right shall continue to have whatever right of access as is now provided for under existing law, and this section shall not operate in any way to diminish or limit such right of access.

SEC. 11. BARANOF ROAD.

The road offered by section 3(5) shall be generally located as indicated on the map entitled "Baranof Island Lands" referred to in section 2(b)(1). Utilizing monies available pursuant to section 15, the Secretary shall during the 12 years following the date of an acceptance by Shee Atika construct the road to that standard generally utilized for logging roads elsewhere on the Tongass National Forest. At least 5 miles of such road shall be constructed within 3 years after the date of such acceptance, and at least 10 miles of such road shall be constructed within 6 years after the date of such acceptance. The Secretary may utilize without charge such timber, rock and common varieties of mineral materials from the right of way and adjacent lands as are necessary or desirable for construction. The United States shall retain a perpetual easement to utilize the road for public access and National Forest purposes, but the Secretary shall permit use of such easement for general public access only to the extent consistent with protection of the resources and values of the Tongass National Forest.

SEC. 12. STATUS OF RELINQUISHED LANDS.

Cube Cove lands and interests therein conveyed by Shee Atika and Sealaska to the United States pursuant to this Act shall not be subject to any levy, foreclosure, or any other action which would encumber or divest the United States of any right, title, or interest in such lands. No action may be brought by any party in any United States district court pursuant to title 28, United States Code, section 2409a, to quiet title to such lands.

SEC. 13. WITHDRAWALS AND INTERIM MANAGEMENT.

(a) WITHDRAWALS.—Subject to valid existing rights, all lands identified in sections 3 and 4 as available for conveyance to Shee Atika, Sealaska, or both, pursuant to this Act are withdrawn from all forms of location, entry, and selection under the mining and public land laws of the United States, from leasing under the mineral and geothermal leasing laws, and against issuance of preliminary permits and licenses pursuant to the Federal Power Act. This withdrawal shall expire at midnight local time at Juneau, Alaska, on the day 180 days after the date of enactment of this Act unless prior to such hour either Shee Atika or both Shee Atika and Sealaska accept the offers afforded them under this Act, in which case this subsection shall remain in effect until the appropriate lands are conveyed pursuant to this Act.

(b) INTERIM MANAGEMENT.—Subject to valid existing rights, during the acceptance period of 120 days after the date of enactment of this Act, and thereafter if either Shee Atika or both the Corporations accept the offers afforded them herein, the Secretary and the Secretary of the Interior shall manage the lands available for conveyance or leasing to the Corporations so as to maintain their existing character and resources until conveyed or leased.

(c) SAVINGS PROVISIONS.—Nothing in this Act shall be deemed as a cloud of title of lands or interests therein owned on the date of enactment of this Act by Shee Atika

or Sealaska nor shall this Act be construed in any way as affecting the existing ownership or as limiting the use of lands owned by the respective Corporations on the date of enactment of this Act. Nothing in this Act shall be construed to limit the ability of Shee Atika to harvest timber on Cube Cove lands during the time periods prescribed in section 5 for acceptance of this offer, or require that any agency of the United States withhold action on any permit or other application pending before it during such time periods. Nothing in this Act shall be construed to limit the authority of the Secretary to enter into land exchanges with either Shee Atika or Sealaska pursuant to existing exchange authorities. Nothing in this Act shall be construed as a taking by the United States of lands which as of the date of enactment of this Act are not the property of the United States.

SEC. 14. JUDICIAL REVIEW.

(a) SPECIAL RULES.—With respect to any conveyances or transfers of lands and interests in lands to and from the United States pursuant to this Act, or the issuance of any leases by the United States pursuant to section 9 of this Act, or the location of easements pursuant to this Act, the application of laws, rules, and regulations shall be limited as provided in paragraphs (1) through (7) as follows:

(1) The National Environmental Policy Act of 1969 (83 Stat. 852) shall not apply and an environmental impact statement or environmental assessment shall not be required. This paragraph shall not preclude the Secretary from exercising sole discretion to prepare any environmental assessment or environmental impact statement if the Secretary desires, but such assessment or statement shall not be subject to judicial review.

(2) Section 810 of the Act shall not apply.

(3) Sections 17(b) and 22(k) of the Settlement Act shall not apply.

(4) Sections 208, 306, 402, and 404 of the Clean Water Act (33 U.S.C. 1261, et seq.) shall not apply.

(5) Section 10 of the Rivers and Harbors Act (33 U.S.C. 403) shall not apply.

(6) The Coastal Zone Management Act (16 U.S.C. 1451, et seq.) shall not apply.

(7) The Historic Preservation Act (80 Stat. 915), the American Indian Religious Freedom Act (92 Stat. 469), and the Archaeological Resources Protection Act (88 Stat. 174) shall not apply.

Nothing in this section shall be construed as limiting the applicability of any law, rule, or regulation to any action or activity other than those specified in this subsection.

(b) CLAIMS.—

(1) LIMITATION.—Except for actions described in section 9(b), actions alleging that an action or activity described in subsection (a) of this section undertaken by a Federal officer or agency pursuant to this Act is in excess of statutory jurisdiction, authority, limitation, or statutory right may only be brought no later than the 60th day following the date of such action or activity.

(2) JURISDICTION.—Any action based on a claim based on the provisions of this Act shall be barred unless prior to the expiration of any applicable time limit a complaint is filed in the United States District Court for the District of Alaska, and such court shall have exclusive jurisdiction with respect to any such action.

(3) STANDING.—Except with respect to an action described in section 9(b), the only parties who shall have standing to bring any action or activity challenging any action described in subsection (a) of this section by a Federal officer or agency shall be—

(A) Shee Atika,

(B) Sealaska,

(C) the State of Alaska,

(D) Kootznoowoo Incorporated, and

(E) parties with valid existing property rights or valid rights arising under a contract with the United States, but only to the extent such property or contract rights can be shown to be affected by this Act.

SEC. 15. FUNDING.

(a) SOURCE.—Payments required by section 3(6), all costs associated with road construction required by section 3(5), and all costs to the government associated with the activities required pursuant to section 8 shall be defrayed from receipts from timber and other resources from National Forest System lands, notwithstanding any other law providing for the distribution of such receipts. All funds required for these purposes are authorized and shall be made available without appropriation to the Secretary by the Secretary of the Treasury and these funds shall not be subject to deferral, rescission or any reduction under the Congressional Budget and Impoundment Control Act of 1974 or any other authority. This section shall not affect pay-

ments to States and counties as provided by the Act of May 23, 1908, and section 13 of the Act of March 11, 1911 (16 U.S.C. 500).

(b) LIENS.—Before the Secretary pays Shee Atika the first installment of the payment specified in section 3(6), Shee Atika shall provide the Secretary with written releases satisfactory to the Secretary from all liens and encumbrances to the title of the Cube Cove lands, except for valid existing rights as of the date the Cube Cove lands were conveyed by the United States to Shee Atika. In cooperation with Shee Atika, the Secretary is authorized to establish such procedures and take such steps as the Secretary, in his discretion, deems necessary or desirable to provide for the release of all liens and encumbrances to the Cube Cove lands and for payment of the net balance to Shee Atika. If Shee Atika is unable to provide the Secretary with a written release for any lien or encumbrance as required by this section, at the request of Shee Atika the Secretary shall release to a court of competent jurisdiction an amount as prescribed by such court as necessary to secure release of any such lien, and the remaining amount shall be paid over to Shee Atika. Nothing in this Act shall preclude Shee Atika from assigning all or part of the cash payment offered in this Act for the benefit of Shee Atika's creditors.

(c) CREDITS.—If on the date of Shee Atika's acceptance pursuant to section 5, the Secretary and Shee Atika have entered an agreement pursuant to section 504(k) of the Act as amended by Public Law 99-235, and a payment or payments have been made to Shee Atika pursuant to or in consideration for such agreement, the amount of any such payment or payments shall be credited against the first installment of the payment specified in section 3(6), and such installment shall be reduced accordingly.

SEC. 16. STATUS OF LANDS CONVEYED.

(a) SATISFACTION OF ENTITLEMENTS.—In the event that the offer contained in section 3 of this Act is accepted by Shee Atika, the lands, interests therein, and rights conveyed by this Act shall constitute full satisfaction of all rights and entitlements of Shee Atika under the Settlement Act and the Act, and shall supersede and void all previous land selections of, and conveyances to, Shee Atika of lands on Admiralty Island. Of the offer contained in section 4 of this Act, the lands, interests therein, and rights conveyed by this Act shall likewise constitute full satisfaction of the land entitlement rights of Sealaska arising from its relinquishment of interests to Cube Cove Lands, and shall supersede and void all previous land selections of and conveyances to Sealaska of subsurface rights on Cube Cove Lands pursuant to this Act. Nothing in this Act shall be deemed to in any way create or establish a fiduciary relationship between the United States and Shee Atika, Sealaska or any other corporation or entity.

(b) SCOPE OF OFFER.—All lands listed in sections 3 and 4 are of approximate acreages and are subject to valid existing rights and to reservations as provided in this Act.

SEC. 17. MISCELLANEOUS.

(a) AMENDMENT TO SECTION 103.—Section 103 of the Act is hereby amended by inserting "(but not as National Forest Monuments)" after the words "and national recreation areas" in the third sentence of subsection (b) of such section.

(b) AMENDMENTS TO SECTION 504.—Section 504 of the Act as amended by Public Law 99-235 is hereby further amended by striking from paragraph (2) of subsection (e) of such section the words and figures "December 2, 1986" and by inserting in lieu thereof "December 2, 1986, except that with respect to any such claim involving lands within the Greens Creek area of the Admiralty Island National Monument, such shall occur on December 2, 1987".

(c) TRANSFERS.—Lands transferred, exchanged, or granted pursuant to section 506(a)(2) of the Act shall be deemed to have been transferred, exchanged, or granted as of December 31, 1979: *Provided*, That this effective date shall not be construed in any way so as to obligate any payments by the United States, or as to require the escrow of any funds which may have been generated on such lands prior to December 2, 1980.

(d) AMENDMENTS TO SECTION 506.—(1) Section 506(a)(5) of the Act is hereby amended by adding at the end thereof the following new subparagraph:

"(C) If such sale is voluntarily terminated, or is cancelled or is forfeited in accordance with applicable laws and regulations, for one year after such termination, cancellation, or forfeiture all lands within the sale area and lands between such sale area and lands lying to the east of such sale area which have been or may be conveyed to Kootznoowoo pursuant to this paragraph (5), shall be made available to Kootznoowoo, Incorporated, for exchange, on the basis of equal timber and other property values and other terms mutually agreeable to the Secretary of Agriculture

and Kootznoowoo, Incorporated, for lands previously selected by or conveyed to Kootznoowoo, Incorporated, pursuant to this paragraph (5).".

(2) Section 506(a)(8) of the Act is hereby amended by adding at the end thereof the following new subparagraph:

"(D)(i) The Secretary of Agriculture is authorized and directed to acquire the lands and interests of Kootznoowoo, Incorporated on Admiralty Islands specified in clause (iv) of this subparagraph.

"(ii) The acquisition shall be by the exchange of Federal lands and interests for those acquired from Kootznoowoo and shall be for equal value as determined by consideration of relevant market and other data and negotiations between the parties, and arbitration, if necessary.

"(iii) No later than 120 days after the date of enactment of the Admiralty Island Exchange Act of 1986, the Secretary shall offer to acquire, by exchange for some or all of the Federal lands identified in part (iv) of this subparagraph, the following lands and interests of Kootznoowoo on the 3,500 acres conveyed to Kootznoowoo on Admiralty Island under the terms of section 506(a)(3)(A): all rights to the commercial harvest of timber (but reserving other surface and subsistence uses) and all right, title, and interest in the subsurface estate of such lands (but reserving sand, gravel, and other common varieties of mineral materials on such lands). Any rights to timber on Admiralty Island acquired by the United States from Kootznoowoo shall be retained by the United States, and such timber shall not be harvested except in accordance with section 503(d) of this Act.

"(iv) As compensation for lands and interests acquired pursuant to this subparagraph (D), the Secretary, on behalf of the United States, shall offer to convey in exchange all or such part of the following Federal lands (as depicted on the maps entitled "Kootznoowoo Selection Lands" dated July 1986) in fee, in the order listed, as is necessary to achieve equality of value between the Kootznoowoo lands and interests acquired and the Federal lands conveyed: (I) North Point Higgins Coast Guard Base; (II) Betton Island and Back Island; (III) Hawk Inlet; (IV) Couverden Point; (V) Porpoise Islands; (VI) Southeast End of Krestof Island; (VII) Pleasant Island; (VIII) Shelter Island; (IX) Eagle River; (X) Douglas Island; (XI) Seal Cove; (XII) Nahenia Bay; and (XIII) other Federal lands in Southeast Alaska outside any conservation system unit identified by the Secretary in consultation with Kootznoowoo, Incorporated, to the extent that lands identified in this clause are insufficient to provide equal value for the lands to be conveyed to the United States.

"(v) Upon receipt of a notice setting forth the Secretary's offer and the Secretary's valuation of the lands and interests to be acquired by the United States and those offered to Kootznoowoo, Kootznoowoo shall have 60 days within which to either accept the offer or to notify the Secretary that the corporation differs with the Secretary's valuation of lands and interests involved in the exchange and desires to submit this issue to arbitration on terms which are acceptable to both parties. If Kootznoowoo neither accepts the offer nor requests an arbitration within 60 days after Kootznoowoo's receipt of the offer, the Secretary may in his discretion either rescind the offer or provide additional time for Kootznoowoo to respond. If Kootznoowoo accepts the offer, conveyance of the exchange lands between the Secretary and Kootznoowoo shall be within 60 days of acceptance by Kootznoowoo, whether following the Secretary's offer or the conclusion of arbitration.".

(e) SHAREHOLDER HOMESITES.—Section 21 of the Settlement Act, as amended by section 1407 of the Act, is further amended by inserting ", a Regional Corporation, or an Urban Corporation" after the words "Village Corporation" each time such words occur in subsection (j) of such section 21.

PURPOSE

H.R. 4883 is intended to resolve long-standing disputes concerning Admiralty Island, Alaska, and to further the protection of the Admiralty Island National Monument, by providing to private parties who own lands and interests in lands located on the island an opportunity to transfer those holdings to the United States, in exchange for other lands and things of value.

BACKGROUND AND NEED

Proposals for the protection of Admiralty Island, in Southeast Alaska, date back at least to 1901, when President Theodore Roose-

velt recommended that it be made a brown bear refuge. In subsequent years, Admiralty was proposed several times for national park status, for wilderness, for a national sanctuary, and for recreation use. Although the island has been frequently studied, no special protective status was granted until 1978.

For years before that, Admiralty Island was under threat of massive clearcutting operations. The threat did not materialize only because the first timber purchaser went bankrupt and two subsequent purchasers forfeited their contracts. In 1969, Admiralty Island was included in the largest single timber sale in U.S. history. The Forest Service awarded a 50-year contract to United States (Plywood) Champion International to cut 8.75 billion board-feet of timber. The company's initial plan called for clearcutting a section on the west side of Admiralty near the village of Angoon. That threat was stayed by a lawsuit which resulted in the cancellation of the contract by mutual consent of the company and the Forest Service in 1975.

However, another controversy arose over withdrawals of land on Admiralty Island announced that same year by the Secretary of the Interior on behalf of two "urban" Native corporations. The corporations, Goldbelt, Inc. and Shee Atika, Inc. were formed under Section 14(h)(3) of the Alaska Native Claims Settlement Act (ANCSA) to represent Natives living in the urban centers of Juneau and Sitka respectively.

Native peoples residing in the traditional villages in southeast Alaska formed village corporations under Section 16 of ANCSA. These villages were entitled to select 23,040 acres of public lands encompassing their villages. The "urban" Native corporations, including those for Kenai and Kodiak as well as for Juneau and Sitka, were treated differently under ANCSA because their shareholders were living in municipalities or "urban" centers that were predominantly non-Native and where land was in private ownership. Therefore they could not receive the immediately local township of public land, or so called "core township", which all other villages were granted. The controversy over the urban Native land withdrawals on Admiralty arose largely from an interpretation given to Section 14(h)(3) of ANCSA by the Secretary in promulgating regulations to implement it. That interpretation, as applied to Admiralty Island, became the subject of litigation.

When the 95th Congress began consideration of proposed Alaska lands bills, the litigation was on inactive status. The parties to the suit were encouraged by the Interior Committee to try to reach agreement on a voluntary resolution of the land selection problem. The Forest Service at that time indicated it could find sufficient land to meet the selection requirements of the urban corporations if given guidelines for determining values. Both the Juneau and Sitka corporations indicated their willingness to accept alternate land off Admiralty Island, if their economic interests were protected.

ALASKA LANDS DEBATES

In 1978, the House passed H.R. 39, a bill entitled the Alaska National Interest Lands Conservation Act. Final action on similar leg-

islation was blocked in the Senate by the threat of a filibuster, and the 95th Congress adjourned without completing action on Alaska lands legislation.

On December 1, 1978, President Carter, employing his powers under the Antiquities Act of 1906, issued a proclamation designating most of Admiralty Island as a National Monument to be managed by the U.S. Forest Service (the Island has been part of the Tongass National Forest since that forest was created).

The House-passed Alaska lands bill of the 95th Congress included provisions addressing the status of the Native selections on Admiralty Island.

In general, the bill authorized the Secretary of Agriculture to designate alternative lands of equal or greater timber values in Southeast Alaska but off Admiralty Island which would be made available to the Native corporations in exchange for their on-Island selections.

In April, 1979, Goldbelt, Inc., concluded an exchange agreement with the Secretary of Agriculture whereby Goldbelt agreed to relinquish its selections on the northwestern coast of the island in exchange for other lands in the Tongass National Forest. That exchange was ratified in the House-passed bill of the following (96th) Congress.

Final Congressional action on Alaska Lands legislation came in the 96th Congress. The House had passed its version (the Udall-Anderson bill) in May, 1979. The Senate passed a bill in August, 1980.

The Senate version, like the House bill, confirmed the Goldbelt exchange. It also included a specific land exchange between the United States and Kootznoowoo, Inc., the corporation for Angoon (the only village actually located on the island) whereby Kootznoowoo received lands off Admiralty. And the Senate bill included provisions granting Shee Atika, Inc. the surface estate in the lands on Admiralty Island which had been relinquished by Goldbelt. The subsurface estate in those lands was conveyed to Sealaska, Incorporated, the regional corporation formed pursuant to ANCSA whose shareholders are Natives in southeastern Alaska.

Members in the House who had been involved with this matter anticipated that there would be a conference, in accordance with the normal course of business, to reconcile differences between the House and the Senate bills. The concerned Senators, however, would not agree to such conference and made it clear that they intended to present to the House a "take it or leave it" choice and no more than that.

On November 12, 1980, the House acquiesced in the Senate version of the bill, and it was signed into law by President Carter on December 2, 1980.

The Alaska National Interest Lands Conservation Act (Public Law 99–487; the "Alaska Lands Act") designated most of Admiralty Island as a National Monument (a legislative designation replacing the similar designation under the Presidential Proclamation of 1978). Within the Monument boundaries one area (the Greens Creek area at the north end of the Monument) was excluded from wilderness designation so as to permit continued, limited exploration and development of minerals by a joint venture which had claims in the area. Also included within the outer boundaries of

the Monument, as a private inholding, were the lands conveyed to Shee Atika and Sealaska. These are commonly referred to as the "Cube Cove lands".

SINCE 1980

Enactment of the Alaska Lands Act did not end controversy over Admiralty Island.

Since 1980, the status of Shee Atika's lands at Cube Cove and the corporation's attempts to subject them to timbering have been the subject of protracted litigation which is still ongoing.

Additional controversy has resulted from Administration proposals regarding mineral development in the Greens Creek area.

Section 504 of the Alaska Lands Act facilitated mineral exploration in the Greens Creek area. As was the case under the Presidential Proclamation of December 1, 1978, the area (as part of the National Monument) remains withdrawn from mineral entry. However, the act provided that holders of unperfected claims properly located, recorded, and maintained as of November 30, 1978, could receive exploration permits for such of those unperfected claims as were located within three-fourths of a mile of a patented or perfected ("core") claim. Recipients of the exploration permits were authorized to explore the relevant unperfected claims and to apply for patents to the minerals therein. Issuance of such mineral patents would require the showing of a valuable discovery, under the general mining laws.

Section 504(c)(2)(A) of the Alaska Lands Act provided that, absent special circumstances (which did not occur) all exploration permits for claims within the Admiralty Island National Monument would expire December 2, 1985. Section 504(e)(2) provided that, absent a prior assertion of a valid discovery, an unperfected claim within the Admiralty Island National Monument "shall be conclusively presumed to be abandoned and shall be void" upon expiration of an exploration permit for such claim.

Since enactment of the Alaska Lands Act, a corporate joint venture (referred to herein as the Greens Creek Joint Venture), has carried out exploration activities in the Greens Creek area under permits issued pursuant to the relevant provision of the Act. As the deadline for expiration of the permits approached, the joint venture sought to avoid the consequent voiding of any claims that remained unperfected when the permits expired.

The joint venture first approached the U.S. Forest Service, requesting administrative action to remove the Greens Creek area from the Admiralty Island National Monument and thus from the ambit of Section 504 of the Alaska Lands Act.

After favorable consideration of this request at lower levels within the Department of Agriculture, the Acting Secretary of Agriculture informed Chairman Udall and the Committee, by a letter dated December 24, 1984, that the Administration intended to utilize the authority provided by Section 103(b) of the Alaska Lands Act to "make minor adjustments" in the boundaries of conservation system units so as to exclude the Greens Creek area from the Admiralty Island National Monument while adding a nearby area (known as "Young Bay" or "VCU 133") to the Monument.

On January 29, 1985, Chairman Udall wrote to the Secretary of the Interior and the Secretary of Agriculture regarding this and other matters. In that letter, the Chairman expressed strong opposition to the proposed change in the boundary of Admiralty Island National Monument, and concluded that "For the Department of Agriculture to attempt to overturn these legislative arrangements" with regard to mineral exploration in the Greens Creek area "is clearly beyond the proper scope" of the boundary-adjustment provisions of Section 103(b).

PUBLIC LAW 99-235

During 1985, the Greens Creek Joint Venture sought legislative action to extend its ability to carry out exploration activities in the Greens Creek area. In response, the Committee reported a bill which was enacted as Public Law 99-235, which extended the status quo for one year, by providing that no claim will be voided by operation of section 504(e)(2) of the Alaska Lands Act prior to midnight, December 2, 1986.

Public Law 99-235 also addresses other matters affecting Admiralty Island which were dealt with in the Alaska Lands Act, and in particular the status of the Cube Cove lands.

On November 7, 1985, Shee Atika testified that it believed that recent decisions in the trial courts enabled it to "pursue resource development that will result in the harvesting of timber on our Admiralty Island properties." The Committee was told that Shee Atika had already advertised a stumpage sale in order to produce immedi ate income. Testimony was given that Shee Atika intended that by March of 1986 the necessary contracts would be finalized so as to provide for harvesting on the Cube Cove lands.

While both Shee Atika and Sealaska have testified that they are amenable to steps which would avoid further development of the Cube Cove lands, Shee Atika has made it clear that its financial situation is such that an indispensable element in any such alernative arrangements is expeditious receipt by Shee Atika of needed funding to enable it to meet certain outstanding obligations and business expenses.

For its part, Sealaska has testified that it has entered into an agreement in principle to become a participant with the Greens Creek Joint Venture, contingent upon Sealaska's exchange of its subsurface estate in the Cube Cove lands for federal lands in the Greens Creek area.

As an interim measure intended to assist in efforts to further resolve the status of the Cube Cove lands, Congress provided in Public Law 99-235 that the Secretary of Agriculture should seek to negotiate an agreement with Shee Atika under which Shee Atika would agree, in return for agreed compensation, not to allow timber harvest or other activities on its Admiralty Island Lands that would be inconsistent with their possible future inclusion in the Admiralty Islands National Monument Wilderness. The law's language is mandatory upon the Secretary of Agriculture, but not mandatory in any way upon Shee Atika. The Committee understands that such negotiations in fact have taken place, but no agreement has been reached.

Enactment of Public Law 99-235 came during the final days of the first Session of the present Congress. During the second Session, efforts have continued to try to develop legislation which would address Admiralty Island questions in a more conclusive manner. Those efforts have produced the bill which the Committee now reports.

EVOLUTION OF H.R. 4883

H.R. 4883, as introduced, was an exchange offer which Shee Atika (or both Shee Atika and Sealaska) could accept or reject. Throughout the Committee's consideration of the bill, the voluntary nature of any such exchange has been seen as an essential feature, and it is retained in the bill as reported.

As introduced, H.R. 4883 provided that if Shee Atika and Sealaska both were to accept the bill's offer, the two corporations would relinquish and convey to the United States their right, title and interest to the Cube Cove Lands. In return, the United States would give to the corporations lands and other things of value as follows:

Shee Atika would receive both the surface and subsurface estate in certain lands on Baranof Island, near Sitka, and the United States would be contractually obligated to build a road to connect those lands to the existing road network; Shee Atika would also receive the surface estate in certain land on Kuiu Island. In addition, conveyance of the Cube Cove lands would be deemed to be complete satisfaction of certain outstanding obligations of Shee Atika to the United States.

Further, Shee Atika would receive title to 40 percent of the subsurface estate of certain lands in the Greens Creek area, would receive two cash payments from the United States (in successive fiscal years) totalling $15 million, and could harvest some of the timber on the Cube Cove lands, under terms and conditions intended to protect environmental values of those lands.

The bill as introduced provided that if both corporations should accept, Sealaska would, for its part, receive the subsurface estate in some of the lands whose surface would go to Shee Atika; certain other subsurface interests in Southeast Alaska; 60 percent of the subsurface estate in the Greens Creek lands; and a long-term lease to the surface of some of the Greens Creek lands.

As introduced, the bill provided that should Sealaska decline the bill's offer, Shee Atika would receive all (not just 40 percent of the Greens Creek subsurface, and timber harvesting on the Cube Cove lands would be reduced accordingly. As introduced, the bill provided that should Shee Atika reject the bill's offer, there would be no exchanges, regardless of Sealaska's acceptance or refusal.

The bill as reported retains these same basic elements, but has undergone extensive revision as to some of the details.

The bill as introduced proposed to offer to Shee Atika, inter alia, certain lands on the portion of Kuiu Island known as the Bay of Pillars.

These were not the same Kuiu Island lands which Shee Atika and others had indicated as being desirable from a standpoint of timber values. Rather, the Bay of Pillars lands were included in

the original bill because they currently are not included in the Forest Service's calculations of the timber base from which the Forest Service proposes to supply timber to industry.

The point of offering such lands was that since those lands are not included in the timber base, their transfer out of federal ownership would not have any effect on the availability of timber to industry.

At the Subcommittee hearing, the original bill met with vigorous opposition because it proposed to allow Shee Atika to continue to cut some timber on the Admiralty Islands lands which it would be transferring to the federal government.

In order to eliminate that objection, and also to offer Shee Atika lands which they would find more desirable than the Bay of Pillars lands, it was suggested that continued cutting at Cube Cove be eliminated, the cash component of the exchange package be increased, and the lands component be altered so that Shee Atika could receive the lands on north Kuiu Island which they preferred to the Bay of Pillars lands.

However, the north Kuiu islands lands are currently classified as being in the national forest timber base. Based on the information presented at the Subcommittee hearing on the bill, and the Public Lands Subcommittee's extensive oversight hearings on the Tongass National Forest earlier this year, the Committee believes that there is ample evidence to support the view that transfer of these lands would not impair the Secretary's ability to maintain the timber supply to industry. And the Committee has noted that in any event, even after such a transfer the Secretary would retain ample authority to reclassify the Bay of Pillars or other lands—outside of wilderness—to assure that the timber supply was in fact maintained.

However, the Committee notes that it is the official position of the Forest Service, as set forth at the hearings, that they cannot presently state that transfer of the north Kuiu lands would not have an effect on the timber supply. The Forest Service takes this position because the State of Alaska has not yet completed its selections of National Forest lands under the Statehood Act. Thus, there is a theoretical possibility that the timber base would be so impacted by State selections that the additional impact of a north Kuiu transfer would interfere with the timber supply. This Forest Service position is of course not based on a particular estimate of what the State may choose to select. In fact, the State has informed the Committee that it is unlikely that their selections will have such an impact. However, the State is not prepared to bind itself to avoid selections that might have such an impact, and the Forest Service cannot bind itself either.

To avoid this dilemma, it was proposed that the Cube Cove lands be placed in a special status akin to being "in escrow", after their transfer to the United States, and remain in this status until the deadline by which the State must complete its selections of land under the Statehood Act. Until then, under the proposal, the Secretary of Agriculture, upon determining it necessary, could reclassify so much of the Cube Cove lands as required to offset impacts on the timber supply resulting from State selections in combination with the transfer of the north Kuiu lands to Shee Atika.

The Committee seriously considered this proposal as a way to eliminate even the theoretical possibility that the combination of the Kuiu island transfer and State selections would have an adverse impact on the timber supply to industry. However, after further deliberations among those concerned, this proposal was not included in the bill as reported. Instead, the Committee adopted an amendment in the nature of a substitute which retains the "Bay of Pillars" in the package to be offered to Shee Atika.

The Committee substitute also includes provisions to further extend the present legal status of mining claims in the Greens Creek area; to provide for acquisition of Admiralty Island holdings of Kootznoowoo, Incorporated, through an exchange for identified federal lands; and to clarify the provisions of the Alaska Lands Act regarding the authority of the Secretary of Agriculture to modify the boundaries of the National Forest Monument.

THE COMMITTEE AMENDMENT

The Committee amendment in the nature of a substitute is discussed more fully in the Section-By-Section Analysis portion of this Report.

SECTION-BY-SECTION ANALYSIS

As reported, the bill is in 17 sections, which are discussed below:

Section One

Section One provides a short title, namely the "Admiralty Island Land Exchange Act of 1986," and states the general purpose of the bill, namely to provide an offer for an exchange between the United States on the one hand and Shee Atika, Inc., and Sealaska, Inc., (both native corporations formed pursuant to the Alaska Native Claims Settlement Act) on the other, for acquisition by the United States of lands and interests therein located on Admiralty Island, Alaska.

Section Two

Section Two defines a number of terms used in the bill, and provides for appropriate filing of maps dealing with the lands affected by the bill. As the subsection makes clear, the acreages cited in the bill, and in case of discrepancies, the maps are controlling. The maps should not be read as suggesting any attempt to convey non-Federal lands or lands which have been selected by the State of Alaska.

Section Three

Section Three sets forth the offer made to Shee Atika. It lists those lands, interests in lands, and other things of value which the United States would transfer to Shee Atika in exchange for Shee Atika's holdings on Admiralty Island, should Shee Atika voluntarily decide to accept the offer.

Specifically, section three offers to Shee Atika: (1) the surface and subsurface estate in approximately 11,400 acres on Baranof Island, north of the City of Sitka; (2) the surfaced estate in about 12,000 acres of federal lands in the "Bay of Pillars" portion of Kuiu

Island; (3) an opportunity to participate in mineral development in the Greens Creek area of Admiralty Island by becoming at least a 40 percent shareholder in a new corporation or partnership to which the United States would transfer the subsurface estate in about 15,000 acres in that area; (4) cancellation of certain outstanding debts which Shee Atika owes to the United States; (5) construction by the United States of a road to connect the above-listed Baranof Island lands to the existing road system; and (6) a cash payment of $25 million (derived from sources specified in Section 15) spread over two fiscal years.

Section Four

Section Four sets forth the offer to Sealaska. It lists those lands, interests in lands, and other things of value which the United States would transfer to Sealaska in exchange for Sealaska's holdings in the same area as the holdings of Shee Atika on Admiralty Island, should Sealaska voluntarily decide to accept the offer.

Specifically, section four offers to Sealaska; (1) an opportunity to participate in mineral development in the Greens Creek area of Admiralty Islands as a 60 percent shareholder in a new corporation or partnership to which the United States would transfer the subsurface estate in about 15,000 acres in that area and a leasehold interest in certain portions of the surface of those lands; (2) the subsurface estate in about 4,709 acres near Hetta Inlet on Prince of Wales Island, and (3) any federally-owned subsurface estate underlying lands conveyed to Goldbelt, Incorporated, at Hobart Bay pursuant to an exchange which was ratified by Section 506(b) of the Alaska Lands Act.

Section Five

Section Five specifies the procedure whereby Shee Atika or both Shee Atika and Sealaska can effectuate acceptance of the offers made by this bill.

Subsection (a) provides that an acceptance can be effected by delivery to the Secretary of Agriculture of corporate resolutions and opinion of counsel as to the legality and binding effect of the resolutions.

Subsection (b) establishes deadlines by which (in the absence of extension pursuant to subsection (c)) Shee Atika and Sealaska must act for an acceptance to be effective. The deadline for Sealaska is 90 days after the date of enactment. The deadline for Shee Atika is 120 days after the date of enactment.

Subsection (c) authorizes the Secretary to provide up to 30 additional days for Shee Atika or Sealaska to accept, if an attempted acceptance within the deadlines specified in subsection (b) is technically inadequate.

Section Six

Section Six establishes certain contingencies. It provides that if Shee Atika accepts the offer of Section 3 but Sealaska does not accept the offer of Section 4, Shee Atika will receive 100 percent (not just 40 percent of the subsurface estate in the specified Greens Creek lands, and the amount of lands in the Bay of Pillars area to be transferred to Shee Atika will be reduced accordingly.

This section also provides that if Shee Atika fails to accept the offer made by Section 4, no exchange as provided in the bill shall occur with respect to either Shee Atika or Sealaska.

Section Seven

Section Seven provides for the mechanism whereby the United States will complete the transfer of the offered lands and interests therein and take the other necessary steps if exchanges do occur pursuant to this bill.

Section Eight

Section Eight addresses the status of the Cube Cove lands on Admiralty Island after their acquisition by the United States through an exchange pursuant ot the bill.

Subsection (a) provides that timber harvest and related activities will cease on the Cube Cove lands upon an acceptance by Shee Atika of the offer made by the bill, except to the extent that a contract in effect on May 21, 1986 provides for continuation of such activities. (It is the understanding of the Committee that existing contracts would only result in such activities continuing to the end of the 1986 timber-harvest season.) The Committee intends that the term "related activities" should be construed as permitting removal by Shee Atika or its agents or contractors of timber harvested pursuant to such a contract. This subsection also provides that upon the end of such activities, the Secretary shall carry out specified steps necessary to restore the lands (this shall occur notwithstanding the provisions of subsection (b)). In doing so, the Secretary shall to the maximum extent practicable employ local residents in accordance with the "local hire" provisions of the Alaska Lands Act, and shall finish the work no later than three years after Shee Atika's acceptance.

Subsection (b) provides that upon their transfer to the United States, the Cube Cove lands shall be added to the Admiralty Island National Monument and Admiralty Island Wilderness, and shall be managed accordingly.

Subsection (c) requires the Secretary of Agriculture to include information about State selections in the reports to Congress by Section 706 of the Alaska Lands Act, and to continue accounting for previous adjustments applied in making timber yield calculations. The first such report, submitted earlier this year, showed that the Forest Service, in making its initial yield calculations for purposes of implementing Section 705 of the Alaska Lands Act, had applied an adjustment of approximately 15 million board feet annually. This was done so as to ensure that the requirements of Section 705 could be met even if land-tenure adjustments should reduce the yield from the Tongass National Forest by such an amount. This reflected the Forest Service's awareness of the interest of Congress in eliminating inholdings from the Admiralty Island National Monument by enabling the Native corporations with lands on the island to exchange those lands for National Forest lands elsewhere in the Tongass.

After off-island exchanges for two of the corporations, as discussed above, approximately 9 mmbf annually remained in this "account". Because the exchanges offered in this Act do not impact

lands in the timber base and thus will not "use" any of the 9 mmbf, this timber may be available for State selections, for other exchanges, or for conservation.

Section Nine

Section Nine deals with mining and related activities in the Greens Creek area on Admiralty Island.

Subsection (a) provides for the issuance to Sealaska of a use and occupancy lease for about 4,000 acres in the Greens Creek area, and specifies the terms and conditions for use and occupancy which are to be imposed by such lease.

Subsection (b) is a savings clause to make clear that nothing in this section is to be construed as limiting the applicability of any otherwise-applicable law, rule, or regulation to mining and related activities in Greens Creek area.

Section Ten

Section Ten provides for the reservation by the United States of appropriate and necessary easements in the lands which would be transferred out of federal ownership under exchanges pursuant to the bill. It is the expectation of the Committee that actions of the Forest Service to implement this section will reflect consultations with appropriate agencies of the State of Alaska.

Section Eleven

Section Eleven specifies the manner in which the Secretary of Agriculture shall undertake construction of the road on Baranof Island to be built to connect the existing road system with the lands on Baranof offered to Shee Atika, should an exchange occur pursuant to the bill.

Section Twelve

Section Twelve addresses the status of the Cube Cove lands so far as concerns possible actions against the United States (once the lands are transferred to the United States under an exchange pursuant to the bill). It provides that they shall be exempt from any levy, foreclosure, or other action to encumber or divest the United States of title, and that the title of the United States shall not be subject to challenge pursuant to the so-called Quiet Title Act (28 U.S.C. 2408a).

Section Thirteen

Section Thirteen is intended to maintain the status quo on the federal lands which would be elibible for transfer to Shee Atika or Sealaska under the bill, pending a decision by the corporations as to acceptance of the offers of the bill. Subject to valid existing rights, these federal lands are withdrawn from mineral entry and from operation of the mining laws and mineral and geothermal leasing laws for 180 days after enactment, and they are to be managed to maintain their existing character pending the deadlines for decisions by the corporations. However, nothing in this section (or elsewhere in the bill) is to be construed as creating a cloud on the title of lands or interests therein which are owned by Shee Atika or Sealaska, or as affecting the rights and privileges of Shee Atika

and Sealaska with respect to their own lands unless and until such time as those lands may be transferred to the United States under an exchange pursuant to the bill.

Section Fourteen

Section Fourteen addresses judicial review of the provisions of the bill and certain actions which will be taken to implement it after enactment.

Subsection (a) provides that certain enumerated statutes shall not apply to (1) conveyances or transfers of land and interests therein to and from the United States pursuant to the bill; or (2) the issuance of any leases pursuant to Section 9; or (3) the location of easements pursuant to the bill. This limitation of the applicability of the cited statutes does not extend to any other actions or activities.

Subsection (b) has three main provisions. They are, first, the establishment of a limitation of 60 days after one of the actions or activities described in subsection (a) for the bringing of any judicial challenge to the action or activity being challenged; second, establishment of exclusive jurisdiction in the U.S. District Court for the District of Alaska of any action based on a claim involving the provisions of the bill; and third, limitations on standing to bring actions challenging any action or activity described in subsection (a). Under this subsection, the only parties who would have standing to bring such an action would be Shee Atika, Sealaska, the State of Alaska, Kootznoowoo, and parties with valid existing property or contract rights affected by the bill.

Section Fifteen

Section Fifteen specifies the source of funds for payments and other costs associated with the bill, and deals with related matters.

Subsection (a) provides that funding for the payments and other costs is to come from receipts from timber and other resources from National Forest system lands, nationwide, without affecting payments to States and counties under applicable law, and without deferral, rescission, or other reduction under the Congressional Budget and Impoundment Control Act or other law.

Subsection (b) provides for the removal of aliens and encumbrances from the Cube Cove lands that would be conveyed to the United States in an exchange under the bill. The Committee expects the Secretary of Agriculture to work closely with Shee Atika in the implementation of this section.

Subsection (c) provides that any payments which may have been made to Shee Atika pursuant to Public Law 99–235 prior to the date of enactment of this bill shall be credited against payments specified in Section 3(6) of this bill if Shee Atika accepts the offer made by Section 3 of the bill.

Section Sixteen

Section Sixteen addresses the status of lands which may be conveyed to Shee Atika and Sealaska pursuant to the bill. It provides that such conveyance will constitute full satisfaction of the recipient corporation's land entitlements arising from relinquishment of the specified holdings on Admiralty Island. It also provides that

acreage cited in the bill are approximate and that conveyances will be subject to valid existing rights and to the reservations specified in the bill.

Section Seventeen

Section Seventeen contains a variety of miscellaneous provisions ancillary to other provisions of the bill.

Subsection (a) amends Section 103 of the Alaska Lands Act to make clear that the so-called "minor boundary adjustment" authority specified in subsection (b) of that section does not include authority to modify the boundary of a National Forest Monument.

Subsection (b) amends Section 504 of the Alaska Lands Act so as to maintain the legal status quo of mining claims in the Greens Creek area until December 2, 1987.

The exchanges offered to Sealaska and Shee Atika by this bill, if accepted, would transfer to private ownership the subsurface estate to 15,000 acres of land in the Greens Creek area, as defined by Section 2(b)(3), and Sealaska would also obtain a lease to 4,000 acres of surface in the same area. The purpose of these exchanges is to eliminate the possibility of mining in the Cube Cove area, and to consolidate mining activity in the Greens Creek area where it is currently underway.

Sealaska and Shee Atika would obtain by these exchanges all of the minerals in the 15,000 acre Greens Creek area for which a valid mineral discovery had not been made and duly noticed prior to December 2, 1985. The right of a claimant to obtain a property right to minerals underlying claims that had not been perfected prior to the creation of Admiralty Island National Monument on November 30, 1978 was extended by Section 504 of the Alaska Lands Act only for claims within three-quarters of a mile of core claims (those which contained a valid mineral discovery as of November 30, 1978 and which were properly located, recorded and maintained as of that date) and only until midnight, December 1, 1985 (unless a permit were extended under Section 504(c)(2)(B) for a delay beyond the permittee's control). Section 504 modified the mining laws applicable to the Green Creek area by adding a notice requirement as a precondition to the vestiture of any form of title in minerals subject to unperfected claims, and by requiring that notice of a valid discovery be given to the Secretary of the Interior prior to December 2, 1985.

Public Law 99-235 prevented unperfected claims in the Greens Creek area that had been extended by Section 504 of the Alaska Lands Act from expiring on December 2, 1985, but it did not extend the right of a claimant to establish and prove up a valid mineral discovery. The purpose of Public Law 99-235 was to maintain the status quo for one additional year, to December 2, 1986, so that, if no exchange were implemented under a comprehensive Admiralty Island bill, the Greens Creek Joint Venture or other interest parties could then pursue alternative legislative options. Subsection (b) of ths section contains an identical, one year extension, which does not grant the right to establish a valid mineral discovery. If the exchanges authorized by this bill in fact occur, they will transfer all mineral rights, including those subject to unperfected claims for which a valid mineral discovery was not made (and properly locat-

ed, recorded and maintained) as of midnight, December 1, 1985. The exchanges would allow development of the mineral estate transferred to Shee Atika and Sealaska in conjunction with development by the Greens Creek Joint Venture of its mineral properties.

Subsection (c) provides that lands transferred, exchanged or granted pursuant to Section 506(a)(2) of the Alaska Lands Act shall be deemed to have been transferred, exchanged, or granted as of December 31, 1979.

Subsection (d) amends Section 506 of the Alaska Lands Act in several respects. Paragraph (1) provides that if a timber sale referenced in subsection (a)(5) of that section of the Alaska Lands Act should be cancelled, forfeited, or voluntarily relinquished, the exclusion of the area of that sale from consideration for the exchange specified in that subsection would no longer be applicable, and Kootznoooo, Inc., would have an opportunity to acquire that area, or lands between that area and its present holdings, by exchange for lands of equal value. This amendment would effectively permit Kootznoowoo to further reduce pressure for development of its corporate assets on Admiralty Island. In addition, land management opportunities for both Kootznoowoo and the Forest Service will be improved by consolidation of scattered land selections in a contiguous tract.

Paragraph (2) amends Section 506(a)(8) of the Alaska Lands Act so as to provide that the Secretary of Agriculture is authorized and directed to acquire certain specified holdings of Kootznoowoo, Inc., on Admiralty Island and in exchange to transfer to Kootznoowoo lands of equal value drawn (in the order specified) from certain listed parcels of land located in southeast Alaska. This paragraph mandates the acquisition of the commercial timber rights and the mineral rights on 3,500 acres on Admiralty Island in proximity to the city of Angoon, subject to reservations of use for local, non-commercial purposes. The acquisition would effectively foreclose the possibility of commercial development of timber or mineral resources on these lands.

While the pool of federal lands from which exchange lands are to be drawn is specified, the actual lands to be exchanged are not specified, pending the determination of equal value between the parties based on market data, negotiation and (if necessary) arbitration.

Details with respect to the pool of federal lands are supplied in maps submitted to the Committee. The lands may generally be characterized as small recreational tracts scattered throughout Southeast Alaska, having no economic value for timber harvest. The tracts included in the amendment have been subjected to review by the State of Alaska, and a letter indicating the State's lack of objection to the tracts, and support for the exchange, has been submitted for the record.

The practical effect of this acquisition (and the reason for its inclusion) would be to complete the process of federal acquisition of private tracts on Admiralty Island capable of large scale commercial development, outside the Greens Creek area. The timber rights acquired by the federal government in this exchange would be retained by the United States, and not harvested except in accord-

ance with Section 503(d) of the Alaska Lands Act. The continued surface ownership and sand and gravel rights reserved from the acquisition anticipate village expansion, and the continued reliance of the village on the resources of the area for construction and building materials so long as such use does not involve the commercial harvest of timber.

Subsection (e) amends Section 21 of the Alaska Native Claims Settlement Act, as amended by Section 1407 of the Alaska Lands Act, so as to authorize regional corporations and urban corporations (as well as village corporations) to institute a program of shareholder homesites.

OVERSIGHT STATEMENT

The Committee on Interior and Insular Affairs will have continuing responsibility for oversight of the implementation of H.R. 4883 after its enactment. No reports or recommendations were received by the Committee pursuant to Rule X, clause 2(b)(2) of the Rules of the House of Representatives.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(2) of Rules XI of the Rules of the House of Representatives, the Committee finds that enactment of H.R. 4883 will have no inflationary impact on the national economy.

COST AND BUDGET ACT COMPLIANCE

In the opinion of the Committee, enactment of H.R. 4883 will result in costs reasonable in terms of the benefits to be derived. The estimate of the Congressional Budget Office follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 8, 1986.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 4883, the Admiralty Island Land Exchange Act of 1986, as amended and ordered reported by the House Committee on Interior and Insular Affairs on August 6, 1986. The purpose of this act is to provide an offer to Shee Atika, Inc., and Sealaska, Inco., to voluntarily relinquish lands and interests held on Admiralty Island in exchange for other lands, cash, and other considerations; and to require the Secretary of Agriculture to acquire the lands and interests on Admiralty Island of Kootznoowoo, Inc., in exchange for other federal land and interests.

CBO estimates that this bill could cost the federal government about $29 million in fiscal year 1987, $11 million in fiscal year 1988, and $1 million in each succeeding fiscal year through 1999. In addition, the government would forgo about $18 million in timber receipts at some time in the future. Most of these costs result from direct spending authority, and would not require appropriations

action. These costs are contingent upon the acceptance by any or all of the corporations of the terms of the exchanges offered. CBO estimates that no costs would be incurred by state or local governments as a result of enactment of this bill.

Shee Atika, Sealaska, and Kootznoowoo are Alaska Native Corporations holding lands and interests on Admiralty Island. In an effort to obtain these holdings, this bill would offer the exchange of lands and interests, a cash payment, forgiveness of outstanding Bureau of Indian Affairs (BIA) loans, and construction of a road. In particular, Shee Atika is offered the surface and subsurface estate of Baranof Islands Lands, the surface estate of Bay of Pillars Lands, a $25 million cash payment in two installments, forgiveness of two outstanding BIA loans with face value of about $11 million, and construction of a road about twenty miles in length. Sealaska is offered the Hetta Inlet Subsurface Lands and any federally-owned subsurface estate underlying lands conveyed to Goldbelt, Inc., in Hobart Bay. Both offers are contingent upon voluntary release by each corporation to all claims to rights, title, and interests in Cube Cove Lands on Admiralty Island.

The act makes the provision that, should only Shee Atika accept the offer, then it shall receive the entire subsurface estate to Greens Creek Subsurface Lands, while its share of surface estate of Bay of Pillars Lands will be reduced to 10,000 acres and no surface leases shall be issued by the Secretary of Agriculture. If both corporations accept the offers, then they may form a corporation or partnership to receive conveyance of Greens Creek Subsurface Lands. Any such corporation or partnership must be formed on the basis of sixty percent equity ownership by Sealaska and forty percent by Shee Atika.

In return for lands and interests held by Kootznoowoo on Admiralty Island, the Secretary of Agriculture is directed to offer the exchange of lands and interests of equal value. The Secretary is to choose from lands listed in the bill, in the order in which they are listed. The value of the lands exchanged is to be set through negotiations between the Secretary and Kootznoowoo.

Should Shee Atika accept the offered exchange, the cost to the federal government would consist of the $25 million cash payment, the principal and interest payments forgone through loan forgiveness, the cost of constructing the road on Baranof Island, the cost of removing certain structures on Admiralty Island, the cost of conducting surveys of conveyed lands, and any timber, mineral, or other receipts that would have come in from the exchanged lands. The bill authorizes and directs the Secretary of the Treasury to pay $25 million of receipts from Forest Service lands to Shee Atika. The payments would be made in two installments. The first, to occur not later than 180 days after acceptance of the offer, would be $15 million. The second istallment shall be paid in the next fiscal year, but no later than twelve months after the first payment. Based on information provided by the Forest Service, CBO estimates the cost of road construction at about $8 million, to be incurred over twelve years, removal costs to be about $0.8 million, and the cost of the surveys to be about $1.5 million. CBO also estimates, based on BIA financial data, that forgiveness of the loans would result in loss of receipts of about $12 million in fiscal year

1987, as the result of forgone principal and interest payments. Finally, CBO estimnates that the federal government would forgo future timber receipts of about $10 million as the result of the land exchange.

If Sealaska accepts the federal government's offer of exchange, there will be additional costs incurred relative to a situation wherein only Shee Atika accepts. Acceptance by Sealaska would result in the conveyance of federal lands to the corporation that would not otherwise be conveyed under this bill. The cost of this conveyance to the federal government is any timber, mineral, or other receipts that would be forgone. No estimate of the amount of those receipts is currently available.

Finally, should Kootznoowoo accept the offered exchange, the costs to the federal government would include forgone receipts as well as negotiation and survey costs. No estimate of the forgone receipts is currently available. Based on information provided by the Forest Service, CBO estimates negotiation and survey costs of about $0.1 million.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

EDWARD GRAMLICH
(For Rudolph G. Penner, Director).

LEGISLATIVE HISTORY AND COMMITTEE RECOMMENDATION

H.R. 4883 was introduced by Representatives Young of Alaska, Udall, and Seiberling on May 21, 1986. On June 6, 1986, the Subcommittee on Public Lands held a hearing on the bill. Subcommittee markup began on July 17, 1986. On August 5, 1986, the Subcommittee adopted an amendment in the nature of a substitute and favorably referred the bill as so amended to the full Committee. On August 6, 1986, the Committee on Interior and Insular Affairs adopted an amendment in the nature of a substitute and ordered the bill as so amended favorably reported to the House by a voice vote.

ADDITIONAL VIEWS

PURPOSE

H.R. 4883 is intended to resolve long-standing disputes concerning Admiralty Island, Alaska, and to further the protection of the Admiralty Island National Monument, by providing to private parties with lands and interests in lands located on the island an opportunity to transfer those holdings to the United States in exchange for other lands and things of value.

The Committee is not unanimous in its belief that there exists sufficient timber within the timber base to provide 450 million board feet of timber annually to dependent industry, if the lands at Kuiu Island were transferred to Shee Atika. Further, during one hearing, a witness for Shee Atika Inc., indicated that it was his opinion that due to the massive wilderness withdrawals of the Alaska National Interest Lands Conservation Act of 1980, he did not think the present commercial timber base on the Tongass was sufficient to meet the goal of 450 million board feet per year established by Congress. It is clear that this is an open question, and that the Committee felt it was worth passing on at this time.

DON YOUNG.